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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSHUA E. LEMMENS,

Plaintiff,

vs.

KILOLO KIJAKAZI,¹
Acting Commissioner of Social Security,

Defendant.

)
) Case No.: 2:20-cv-00881-BNW
)

) **STIPULATION FOR THE AWARD AND**
) **PAYMENT OF ATTORNEY FEES AND**
) **EXPENSES PURSUANT TO THE EQUAL**
) **ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d),**
) **AND COSTS PURSUANT TO 28 U.S.C. § 1920.**
)
)
)

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1
2 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
3 subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of
4 seven thousand five hundred seventeen dollars and twenty five cents (\$7,637.25) under the Equal Access
5 to Justice Act (EAJA), 28 U.S.C. § 2412(d), consisting of seven thousand six hundred twenty dollars
6 (\$7,620.00) in fees and seventeen dollars and twenty five cents (\$17.25) in expenses; and four hundred
7 dollars (\$400.00) in costs under 28 U.S.C. § 1920. This amount represents compensation for all legal
8 services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with
9 28 U.S.C. §§ 1920; 2412(d).

10 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter
11 of Plaintiff's assignment of EAJA fees to Howard Olinsky of the Olinsky Law Group. Pursuant to *Astrue*
12 *v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment
13 will depend on whether the fees are subject to any offset allowed under the United States Department of
14 the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine
15 whether they are subject to any offset.

16 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
17 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and
18 costs to be made directly to Howard Olinsky, pursuant to the assignment executed by Plaintiff. Any
19 payments made shall be delivered to Howard Olinsky.

20 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees,
21 and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise.
22 Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that
23 Plaintiff, Howard Olinsky, including his firm, Olinsky Law Group, and/or Hal Taylor may have relating to
24 EAJA attorney fees in connection with this action.

25 This award is without prejudice to the rights of Howard Olinsky to seek Social Security Act attorney
26 fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: November 15, 2021

/s/ Hal Taylor*
HAL TAYLOR, ESQ.
(*authorized by e-mail on 11/11/21)
Of Counsel, Olinsky Law Group
Attorney for Plaintiff

Dated: November 15, 2021

CHRISTOPHER CHIOU
Acting United States Attorney

/s/ Marcelo Illarmo
MARCELO ILLARMO
Special Assistant United States Attorney

Order

IT IS ORDERED that ECF No. 24 is DENIED without prejudice. There appear to be typographical errors in the amount stipulated to be paid to Plaintiff's counsel such that the Court cannot determine what amount the parties stipulate to. See ECF No. 24 at 2. IT IS FURTHER ORDERED that if the parties refile their stipulation, they must also indicate whether Plaintiff's motion for fees at ECF No. 23 is moot.

IT IS SO ORDERED

DATED: 9:23 am, November 16, 2021



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 160 Spear Street, Suite 800, San Francisco, California 94105. I am not a party to the above-entitled action. On the date set forth below, I caused service of **STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d), AND COSTS PURSUANT TO 28 U.S.C. § 1920** on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which provides electronic notice of the filing:

Hal Taylor: HalTaylorLawyer@gbis.com

Attorney for Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 15, 2021

/s/ Marcelo Illarmo
MARCELO ILLARMO
Special Assistant United States Attorney